

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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| <div>MARVEL CHARACTERS, INC.,<br/><br/>Plaintiff,<br/><br/>v.<br/><br/>LAWRENCE D. LIEBER,<br/><br/>Defendant.</div>  | Case No.: 1:21-cv-7955-LAK<br>and consolidated cases<br>21-cv-7957-LAK and 21-cv-7959-LAK |
| <div>LAWRENCE D. LIEBER,<br/><br/>Counterclaimant,<br/><br/>v.<br/><br/>MARVEL CHARACTERS, INC., and DOES<br/>1-10, inclusive,<br/><br/>Counterclaim-Defendants.</div>  | <b>JOINT STIPULATION AND<br/>[PROPOSED] ORDER REGARDING<br/>PRETRIAL SCHEDULE</b>         |
| <div>MARVEL CHARACTERS, INC.,<br/><br/>Plaintiff,<br/><br/>v.<br/><br/>PATRICK S. DITKO, in his capacity as<br/>Administrator of the Estate of Stephen J.<br/>Ditko,<br/><br/>Defendant.</div>  |   |
| <div>PATRICK S. DITKO, in his capacity as<br/>Administrator of the Estate of Stephen J.<br/>Ditko,<br/><br/>Counterclaimant,<br/><br/>v.<br/><br/>MARVEL CHARACTERS, INC. and DOES<br/>1-10, inclusive,<br/><br/>Counterclaim-Defendants.</div> |   |

MARVEL CHARACTERS, INC.,

Plaintiff,

v.

KEITH A. DETTWILER, in his capacity as  
Executor of the Estate of Donald L. Heck,

Defendant.

KEITH A. DETTWILER, in his capacity as  
Executor of the Estate of Donald L. Heck

Counterclaimant,

v.

MARVEL CHARACTERS, INC. and DOES  
1-10, inclusive,

Counterclaim-Defendants.

**STIPULATION**

Plaintiff and Counterclaim-Defendant Marvel Characters, Inc. (“Marvel”) and Defendants and Counterclaimants Lawrence D. Lieber, Patrick S. Ditko, and Keith A. Dettwiler (collectively, the “Parties”) stipulate as follows:

**WHEREAS**, for the above three referenced cases (which have been consolidated for pretrial purposes), the Court ordered that oppositions to the Parties’ cross-motions for summary judgment are due on or before June 16, 2023, and that Defendants-Counterclaimants’ opposition to Marvel’s motion to exclude the expert testimony of Mark Evanier is due on or before June 11, 2023;

**WHEREAS**, Defendants-Counterclaimants’ counsel, Marc Toberoff, is experiencing health complications from recent medical surgeries which will severely limit his ability to work on Defendants-Counterclaimants’ opposition and reply papers;

**WHEREAS**, in light of Mr. Toberoff’s present medical challenges, Defendants-Counterclaimants have asked Marvel to agree to an extension of the briefing deadlines;

**WHEREAS**, Marvel has advised Defendants-Counterclaimants that it agrees to the requested extension subject to approval of the Court;

**WHEREAS**, the Parties further agree to an extension for their joint pretrial order, given that the Parties' cross-motions for summary judgment may moot the need for such filing;

**WHEREAS**, the Parties appreciate the importance of maintaining the steady progress of these cases, and are doing their utmost to balance that concern with the aforementioned obstacles outside their control.

Based on the foregoing, **IT IS HEREBY STIPULATED** by and between the Parties, through their respective counsel of record, subject to the Court's approval, that:

1. The deadline for Defendants-Counterclaimants to submit an opposition to Marvel's motion to exclude the expert testimony of Mark Evanier shall be continued to Sunday, June 25, 2023
2. The deadline to submit oppositions to the Parties' cross-motions for summary judgment shall be continued to Friday, June 30, 2023.
3. The deadline for Marvel to submit a reply in support of its motion to exclude the expert testimony of Mark Evanier shall be continued to Friday, July 21, 2023.
4. The deadline to submit replies in support of the Parties' cross-motions for summary judgment shall be continued to Friday, July 28, 2023.
5. The Parties' deadline to submit a joint pretrial order shall be continued to Friday, October 27, 2023.

Dated: June 8, 2023

**O'MELVENY & MYERS LLP**

By: /s/ Daniel M. Petrocelli  
Daniel M. Petrocelli

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*Attorneys for Marvel Characters, Inc.*

Dated: June 8, 2023

**TOBEROFF & ASSOCIATES, P.C.**

By: /s/ Marc Toberoff  
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*Attorneys for Lawrence D. Lieber, Patrick S.  
Ditko, and Keith A. Dettwiler*

**SO ORDERED:**

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Hon. Lewis A. Kaplan  
United States District Judge

DATE: \_\_\_\_\_